



California Department of
Boating and Waterways

Boater Safety Education Proposed Legislative Language



DRAFT
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STATE OF CALIFORNIA

DEPARTMENT OF BOATING AND WATERWAYS

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1. Executive Summary

This document details proposed legislation for mandatory boater safety education in California, as well as background information and rationales for many of the law elements. The draft legislation amends several existing sections in the Harbors and Navigation Code and creates three new sections. **Table 1-1**, below, provides a summary of the draft mandatory boater education legislation elements.

Table 1-1
Proposed Boating Safety Education Law Elements

Boating Safety Education Law Element	Proposed Requirement
1. Phase-in	Eight years (in addition to two years up-front to prepare for the law's implementation)
2. General requirement	Boating safety education course and exam
3. Grandfathering	None
4. Challenge exam	Available. DBW to specify standards
5. Renter requirement	Abbreviated safety presentation and exam valid for 30 days
6. Reciprocity	Non-residents exempt for up to sixty days if operator meets home state certification requirements
7. New owner requirement	Exempt for up to sixty days
8. Financial penalty	Infraction; \$100 base fine, \$500 maximum fine
9. Education course required for violators	Yes, within time period specified by court (not to exceed seven months)
10. Penalty waiver (for education after conviction)	May be allowed by court
11. Penalty for operator lacking proof of certification	Correctable offense, less transaction fee
12. Proficiency exam for violators	None
13. Vessel power	Over 15 horsepower
14. Sailboats	Over thirty feet
15. Other non-motorized vessels	No requirement

The proposed legislation leverages the Department of Boating and Waterways' (DBW) existing process for approving boating safety education courses. The DBW's fifteen approved boating safety education courses offer boaters a choice of classroom, home-study (correspondence), and internet-based (online) formats.

The proposed legislative language is aligned with similar elements of existing Harbors and Navigation Code requirements. For example, a vessel's horsepower (greater than 15 horsepower) required for an operator to obtain a boater education card aligns with existing California law regarding vessel horsepower applicable for the sixteen-year-old minimum operator age. Sources consulted in the creation of this proposed legislation include:

- Inputs gathered from the California Department of Boating and Waterways (DBW)-sponsored boating stakeholders' meetings held on July 20, 2006 and August 17, 2006
- Washington's mandatory boating safety education act, Senate Bill 5145, the Boating Safety Education Act, signed by the Governor on May 11, 2005
- The National Association of State Boating Law Administrators' (NASBLA) model act for mandatory boating safety education, approved September 21, 2005
- California Harbors and Navigation Code Chapter 5, Article 1 (Sections 650-674)
- The DBW *State Boating Safety Education Laws and Requirements Digest*, July 31, 2006
- Results from a survey of state boating law administrators in May and June, 2006
- Other sources (e.g., California Department of Fish and Game) as necessary to reference California codes equivalent to State of Washington codes.

2. Legislation Structure

This section presents an overview of changes to existing code sections, and additions of new code sections, that would be required with the legislative language proposed in Section 4 of this document. This section is organized as follows:

2.1 General Changes

2.2 Structural Changes.

2.1. GENERAL CHANGES

The proposed bill recommends amending three sections of the California Harbors and Navigation Code (H&N), and adding three new sections.

2.1.1. *Amend Sections*

- Section 651 – (General definitions):
 - Add additional definitions for boating safety education-related terms.
- Section 668.1 (a) – (Safety education course required for certain violations):
 - Add reference to new section 668.4 (boater education violation).
- Section 668.3 – (Department approval of boating safety courses and personal watercraft education courses):
 - Add reference to new section 668.4 and update language to delete “voluntary” personal watercraft education.

2.1.2. *Add Sections*

- Section 668.4: Requirements for vessel operator safety education
- Section 668.5: Phase-in period for operator safety education requirement, and DBW responsibilities for program implementation
- Section 668.6: Requirements for vessel renters.

2.2. STRUCTURAL CHANGES

2.2.1. *Amend Harbors and Navigation Code (H&N) Section 651 with additional definitions*

- Definitions applicable to new act:
 - "Approved safety education course" means a course of instruction on boating safety education that has been approved by the department
 - "Boater education card" means a card issued to a person who has successfully completed the department's boating safety education requirements and has paid the registration fee for a serial number record to be maintained in the department's database

- "Rental vessel" means a vessel that is legally owned by a person that is operating as a rental and leasing agency for recreational vessels, and for which there is a written and signed rental, charter, or lease agreement between the owner, or owner's agent, of the vessel and the operator of the vessel.

2.2.2. Amend subdivision (a) of H&N Section 668.1 (Safety education required upon conviction of certain violations)

- Reference additional section (668.4), adding boating education card violations to violations requiring a safety education course.

2.2.3. Amend H&N Section 668.3 (Department-approved boating safety courses and personal watercraft education courses)

- Reference new section (668.4 – boating safety education law) in subdivision (a)
- Delete "shall be voluntary and" in subdivision (b) (referring to personal watercraft education courses)

2.2.4. Add new H&N Section 668.4

- Section details the requirement for a boater education card for certain vessel operators
- Section format is modeled after Section 4 of Washington SB 5145 ("**Sec. 4.** A new section is added to chapter 79A.60 RCW to read as follows: (1) No person shall operate or permit the operation of motor driven boats and vessels with a mechanical power of fifteen horsepower or greater unless the person...").

2.2.5. Add new H&N Section 668.5

- Section details the implementation phase-in period and the responsibilities of the department in implementing a mandatory boating safety education program
- Section format is modeled after portions of Section 3 of Washington SB 5145 ("**Sec. 3.** A new section is added to chapter 79A.60 RCW to read as follows: (1) The commission shall establish and implement by rule a program to provide required boating safety education...").

2.2.6. Add new H&N Section 668.6

- Section details the requirement for certain vessel renters to provide abbreviated safety education training to vessel operators not holding a boater education card
- Section format is modeled after Section 5 of the NASBLA model boating safety education act: ("Section 5. [*Requirements for Motorboat Rental and Leasing Businesses.*] (a) A person or the person's agent or employee engaged in the business of renting or leasing motorboats...").

3. Draft Legislation

This section presents proposed draft text for a new legislative bill that would mandate boater safety education. The act is intended to require vessel operators to have and present evidence that they have completed California's approved course on safe boating and passed an exam.

The language presented identifies additions to existing California Harbors and Navigation (H&N) code sections (underlined text), deletions to existing H&N code sections (strikethrough text), and presents three new sections to the H&N code.

An act to amend Sections 651, 668.1, and 668.3 of, and to add Sections 668.4, 668.5, and 668.6 to, the Harbors and Navigation Code, relating to boating.

SECTION 1: Section 651 of the Harbors and Navigation Code is amended to read:

651. As used in this chapter, unless the context clearly requires a different meaning:

(a) "Alcohol" means any form or derivative of ethyl alcohol (ethanol).

(b) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(c) "Approved safety education course" means a course of instruction on boating safety education that has been approved by the department.

~~(d)~~ (d) "Associated equipment" means any of the following, excluding radio equipment:

(1) Any system, part, or component of a boat as originally manufactured or any similar part or component manufactured or sold for replacement, repair, or improvement of the system, part, or component.

(2) Any accessory or equipment for, or appurtenance to, a boat.

(3) Any marine safety article, accessory, or equipment intended for use by a person on board a boat.

~~(e)~~ (e) "Boat" means any vessel that is any of the following:

(1) Manufactured or used primarily for noncommercial use.

(2) Leased, rented, or chartered to another for the latter's noncommercial use.

(3) Engaged in the carrying of six or fewer passengers, including those for-hire vessels carrying more than three passengers while using inland waters of the state that are not declared navigable by the United States Coast Guard.

(4) Commercial vessels required to be numbered pursuant to Section 9850 of the Vehicle Code.

~~(f)~~ (f) "Boater education card" means a card issued to a person who has successfully completed the department's boating safety education requirements and has paid the registration fee for a serial number record to be maintained in the department's database.

~~(e)~~ (g) "Chemical test" means a test that analyzes an individual's breath, blood, or urine, for evidence of drug or alcohol use.

~~(f)~~ (h) "Controlled substance" means controlled substance as defined in Section 11007 of the Health and Safety Code.

~~(g)~~ (i) "Department" means the Department of Boating and Waterways.

~~(h)~~ (j) "Director" means the Director of Boating and Waterways.

~~(i)~~ (k) "Drug" means any substance or combination of substances other than alcohol that could so affect the nervous system, brain, or muscles of a person as to impair to an appreciable degree his or her ability to operate a vessel in the manner that an ordinarily prudent person, in full possession of his or her faculties, using reasonable care, would operate a similar vessel under like conditions.

~~(j)~~ (l) "Intoxicant" means any form of alcohol, drug, or combination thereof.

~~(k)~~ (m) "Legal owner" is a person holding the legal title to a vessel under a conditional sale contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state, or to any county, city, district, or political subdivision of the state, under a lease, lease-sale, or rental-purchase agreement that grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

~~(l)~~ (n) "Manufacturer" means any person engaged in any of the following:

(1) The manufacture, construction, or assembly of boats or associated equipment.

(2) The manufacture or construction of components for boats and associated equipment to be sold for subsequent assembly.

(3) The importation into this state for sale of boats, associated equipment, or components thereof.

~~(m)~~ (o) "Marine employer" means the owner, managing operator, charterer, agent, master, or person in charge of a vessel other than a recreational vessel.

~~(n)~~ (p) "Motorboat" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion, but shall not include a vessel that has a valid marine document issued by the United States Coast Guard or any federal agency successor thereto.

~~(o)~~ (q) "Operator" means the person on board who is steering the vessel while underway.

~~(p)~~ (r) "Owner" is a person having all the incidents of ownership, including the legal title, of a vessel whether or not that person lends, rents, or pledges the vessel; the person entitled to the possession of a vessel as the purchaser under a conditional sale contract; or the mortgagor of a vessel. "Owner" does not include a person holding legal title to a vessel under a conditional sale contract, the mortgagee of a vessel, or the renter or lessor of a vessel to the state or to any county, city, district, or political subdivision of the state under a lease, lease-sale, or rental-purchase agreement that grants possession of the vessel to the lessee for a period of 30 consecutive days or more.

~~(g)~~ (s) "Passenger" means every person carried on board a vessel other than any of the following:

(1) The owner or his or her representative.

(2) The operator.

(3) Bona fide members of the crew engaged in the business of the vessel who have contributed no consideration for their carriage and who are paid for their services.

(4) Any guest on board a vessel that is being used exclusively for pleasure purposes who has not contributed any consideration, directly or indirectly, for his or her carriage.

~~(t)~~ (t) "Person" means an individual, partnership, firm, corporation, limited liability company, association, or other entity, but does not include the United States, the state, or a municipality or subdivision thereof.

~~(e)~~ (u) "Personal watercraft" means a vessel 13 feet in length or less, propelled by machinery, that is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel.

~~(f)~~ (v) "Recreational vessel" means a vessel that is being used only for pleasure.

~~(u)~~ (w) "Registered owner" is the person registered by the Department of Motor Vehicles as the owner of the vessel.

(x) "Rental vessel" means a vessel that is legally owned by a person that is operating as a rental or leasing agency for recreational vessels, and for which there is a written and signed rental, charter, or lease agreement between the owner, or owner's agent, of the vessel and the operator of the vessel.

~~(v)~~ (y) "Special-use area" means all or a portion of a waterway that is set aside for specified uses or activities to the exclusion of other incompatible uses or activities.

~~(w)~~ (z) "State" means a state of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia.

~~(x)~~ (aa) "State of principal use" means the state on which waters a vessel is used or intended to be used most during a calendar year.

~~(y)~~ (bb) "Undocumented vessel" means any vessel that is not required to have, and does not have, a valid marine document issued by the United States Coast Guard or any federal agency successor thereto.

~~(z)~~ (cc) "Use" means operate, navigate, or employ.

~~(aa)~~ (dd) "Vessel" includes every description of watercraft used or capable of being used as a means of transportation on water, except either of the following:

(1) A seaplane on the water.

(2) A watercraft specifically designed to operate on a permanently fixed course, the movement of which is restricted to a fixed track or arm to which the watercraft is attached or by which the watercraft is controlled.

~~(bb)~~ (ee) "Water skis, an aquaplane, or a similar device" includes all forms of water skiing, barefoot skiing, skiing on skim boards, knee boards, or other contrivances, parasailing, ski kiting, or any activity where a person is towed behind or alongside a boat.

~~(cc)~~ (ff) "Waters of this state" means any waters within the territorial limits of this state.

SECTION 2: Subdivision (a) of Section 668.1 of the Harbors and Navigation Code is amended to read:

668.1. (a) Any person convicted of a violation of subdivision (a), (b), (c), (d), (e), or (f) of Section 655, or of Section 655.2, 655.6, 655.7, 658, ~~or 658.5, or 668.4~~, or of Section 191.5 of the Penal Code, or of the federal rules of the road and pilot rules, not including equipment requirements, incorporated by reference in Section 6600.1 of Title 14 of the California Code of Regulations, or found by a court to have performed any of the acts described in Section 6697 of Title 14 of the California Code of Regulations, pertaining to a mechanically propelled vessel but not to manipulating any water skis, an aquaplane, or similar device, when the conviction resulted from the operation of a vessel, shall be ordered by the court to complete and pass a boating safety course approved by the department pursuant to Section 668.3.

SECTION 3: Section 668.3 of the Harbors and Navigation Code is amended to read:

668.3. (a) For the purposes of Section 668.1 and Section 668.4, the department shall approve boating safety courses that it determines provides the course taker with information that effectively educates the course taker as to the basic rules of California waterways, the proper and safe manner to operate recreational vessels, and actions that can be taken to avoid boating-related environmental pollution.

(b) The department shall develop a personal watercraft education course that provides the course taker with information that effectively educates the course taker as to the basic rules of California waterways, the proper and safe manner to operate personal watercraft, and actions that can be taken to avoid personal watercraft-related environmental pollution. ~~The course shall be voluntary and~~ shall be made available to groups, individuals, and clubs. The course shall be made available on the department's website and may be made available in other formats, as determined by the department. The department shall consult with the California State Sheriff's Association in developing the course and making it available on the Internet.

SECTION 4: Section 668.4 is added to the Harbors and Navigation Code, to read:

668.4. (a) No person shall operate or permit the operation of a vessel powered by a motor of greater than 15 horsepower, or a sailboat over thirty feet in length, unless the person:

(1) Has in his or her possession a boater education card, unless exempted under subdivision (c) of this section. To obtain a boater education card, a vessel operator must provide proof of completion and passage of an approved safety education course as specified in Section 668.3, or pass an equivalency exam; or

(2) Is accompanied by and is under the direct supervision of a person eighteen years of age or older who is in possession of a boater education card, or who is not required to possess a boater education card as provided in subdivision (c) of this section.

(b) Any person who can demonstrate that he has successfully completed and passed, prior to the effective date of this act, a boating safety education course substantially equivalent to the standards adopted by the department shall be eligible for a boater education card upon application to the department and payment of the fee, without having to take a course or equivalency exam as provided in paragraph (1) of subdivision (a) of Section 668.4. Successful completion of a boating safety education course may include an original or copy of an original certificate issued by the department, or an original or copy of an official certification by a course provider approved by the department, that the individual successfully completed a course substantially equivalent to the standards adopted by the department.

(c) The following persons are not required to carry a boater education card:

(1) The operator of a vessel engaged in a lawful commercial fishery operation as licensed by the Department of Fish and Game under FGC §7881. The person, however, when operating a vessel for recreational purposes must carry either a valid commercial fishing license issued by the Department of Fish and Game or a boater education card;

(2) Any person who possesses a valid marine operator license issued by the United States Coast Guard when operating a vessel authorized by such Coast Guard license. The person, however, when operating a vessel for recreational purposes must carry either a valid marine operator license issued by the United States Coast Guard or a boater education card;

(3) Any person operating a vessel and who possesses a rental, charter, or lease agreement signed within the last thirty (30) days provided pursuant to subdivisions (b) and (c) of Section 668.6, and lists the person as an authorized operator of the motorboat;

(4) Any person who is not a resident of California, is temporarily using the waters of this state for a period not to exceed sixty (60) days, and meets the applicable requirements of the state or country of residency;

(5) Any person who has purchased the boat or vessel within the last sixty days who has a dated bill of sale in his or her possession to document the date of purchase;

(6) Any person who is involved in practicing for, or engaging in, a permitted racing event where a valid document has been issued by the appropriate local, state, or federal government agency for the event, and is available for inspection on-site during the racing event;

(7) Any person who is not yet required to have a boater education card under the phased schedule in subdivision (a) of Section 668.5; and

(8) Any person exempted by regulation of the department.

(d) Except as provided in subdivision (c) of this section, an operator must carry a boater education card while operating a vessel and is required to present the boater education card, or alternative license as provided in paragraphs (1) and (2) of subdivision (c) of this section, to a law enforcement officer upon request.

(e) Any person who violates Section 668.4 is guilty of an infraction punishable by a fine not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500). The penalty shall be waived, less a transaction fee, if the vessel operator presents the required documents in court that prove the person was operating the motorboat in compliance with Section 668.4 on the date of the violation.

(f) In any proceeding for a violation of this section, the court may suspend all or part of the fine to be imposed on the defendant if the defendant completes and passes an approved safety education course and obtains a boater education card within the time limits, not to exceed seven months, imposed by the court.

SECTION 5: Section 668.5 is added to the Harbors and Navigation Code, to read:

668.5. (a) The schedule for phase-in of the mandatory boating safety education requirement by age group is as follows:

January 1, 2011 - All boat operators twenty years old and younger;

January 1, 2012 - All boat operators twenty-five years old and younger;

January 1, 2013 - All boat operators thirty years old and younger;

January 1, 2014 - All boat operators forty years old and younger;

January 1, 2015 - All boat operators forty-five years old and younger;

January 1, 2016 - All boat operators fifty years old and younger;

January 1, 2017 - All boat operators sixty years old and younger;

January 1, 2018 - All boat operators

(b) As part of the boating safety education requirement implementation, the department shall:

(1) Develop standards for an equivalency examination that may be taken as an alternative to the boating safety education course;

(2) Develop standards for instruction, safety and operating checklists, and abbreviated examinations for operators of rental vessels;

(3) Establish a fee for the boater education card to fund expenses related to the boating safety education program created by this act;

(4) Establish a fee for the replacement of the boater education card that covers the cost of replacement;

(5) Develop other necessary regulations to carry out the provisions of this act, including provisions for issuance of certificates, duplicate certificates, record keeping, and cooperative agreements.

SECTION 6: Section 668.6 is added to the Harbors and Navigation Code, to read:

668.6. (a) A person or the person's agent or employee engaged in the business of renting or leasing vessels for a period not exceeding thirty days shall not rent or lease a vessel powered by a motor of greater

than 15 horsepower, or a sailboat over thirty feet in length, to any person for operation on the waters of this state unless the person meets the provisions of paragraph (1) of subdivision (a) of Section 668.5.

(b) A person or the person's agent or employees engaged in the business of renting or leasing vessels shall list on each rental or lease agreement for a vessel powered by a motor of greater than 15 horsepower, or a sailboat over thirty feet in length, the name and age of each person who is authorized to operate the vessel. The person to whom the vessel is rented or leased shall ensure that only those persons who are listed as authorized operators are allowed to operate the vessel.

(c) A person or the person's agent or employee engaged in the business of renting or leasing vessels shall provide to each authorized operator of a motorboat with a mechanical power of fifteen horsepower or greater, or a sailboat over thirty feet in length, a summary of the statutes and regulations governing the operation of a vessel and instructions regarding the safe operation of the vessel. Each person who is listed as an authorized operator of the vessel, and is not in possession of a boater education card, shall review the summary of the statutes, regulations and instructions and pass an abbreviated boating safety exam before the vessel departs from the rental or leasing office.

(d) Any person who violates Section 668.6 shall be guilty of an infraction punishable by a fine not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500).

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Appendix A.

This appendix presents background information obtained during the course of this project. This appendix contains the following subsections:

- A.1 Certification Fees and Violation Penalties – Other States
- A.2 California Boating Violation Bail and Penalty Schedules
- A.3 Existing Boating Safety Education Certification in California
- A.4 Existing Applicable California Laws
- A.5 Stakeholder Workshops.

NewPoint Group surveyed all other 49 states to determine whether these states have boating safety education laws and, if so, the structure and requirements of these laws. A summary of survey results can be found under a separate document titled: *State Boating Safety Education Laws and Requirements Digest* (July 31, 2006).

A.1 CERTIFICATION FEES AND VIOLATION PENALTIES – OTHER STATES

Exhibit A-1, on the following two pages, details fees charged by states for safety education certification and associated penalties for violating related boating safety education laws. Information is from a survey of state boating law administrators that NewPoint Group administered during May and June, 2006. NewPoint Group did not survey states without a mandatory boater education law.

The survey was not designed to determine whether the card fees charged by a state recover any or all of the costs of operating the mandatory education program. Therefore, this information is not presented. Some states that do not charge a fee may not issue boater education cards.

Exhibit A-1

Boating Safety Education Card Fees and Violation Penalties					
State	Fee	Replacement Fee	Penalty for Operating Without Required Certification	Penalty Waiver for Education?	Comment
Alabama	No response				
Alaska	Not surveyed				
Arkansas	\$0, \$15 online	\$5	\$25.00 to \$1,000 plus court costs (\$100.00 average)	"Depends on the judge"	
California	Not surveyed				
Colorado	\$15	\$0	Penalty assessment of \$50 fine	No	
Connecticut	\$25	\$10	\$120 fine	No	
Delaware	Varies	\$0	Subject to arrest, voluntary assessment	No	
Florida	\$0	\$0	Non-criminal infraction, up to \$80 fine	No	
Georgia	\$0	\$0	Misdemeanor, up to \$1,000 fine and one year in jail.	Judicial system may reduce the charge	
Hawaii	Not surveyed				
Idaho	No response				
Illinois	\$0, \$15 online	\$0	Not provided		
Indiana	No response				
Iowa	\$5	\$5	Simple Misdemeanor Total Fine: \$63.00 Fine: \$25.00 32% Surcharge: \$8.00 Court Costs: \$30.00	A person charged with violating shall not be convicted if the person produces in court, with in a reasonable time a department approved certificate	
Kansas	\$0	\$11	Class C Misdemeanor; \$0-\$500 set by the court		
Kentucky	No response				
Louisiana	No response				
Maine	Not surveyed				
Maryland	\$0	\$0	\$25	No	
Massachusetts	\$0	\$0	\$10	No	
Michigan	No response				
Minnesota	\$0	\$0	Petty misdemeanor - about \$115	No	It would cost more for the department. to handle the money than we could charge for the replacement card.
Mississippi	\$0	\$3	\$25-\$50 plus court cost. (court cost averages \$50.00)	No	
Missouri	\$15	\$10	Infraction, fine only	No	

Exhibit A-1

Boating Safety Education Card Fees and Violation Penalties					
State	Fee	Replace- ment Fee	Penalty for Operating Without Required Certification	Penalty Waiver for Education?	Comment
Montana	No response				
Nebraska	Up to \$10	\$0	\$25.00 plus Court costs of \$44.00	No	
Nevada	\$0	\$0	Fines Vary from the \$50-\$100 dollar range depending on court jurisdiction	No, court specific	
New Hampshire	No response				
New Jersey	No response				
New Mexico	No response				
New York	\$10, free for under 18	\$10, free for under 18	\$25 to \$100 fine, up to 7 days imprisonment, or both	No	
North Carolina	\$0	\$0	Class 3 misdemeanor	No	
North Dakota	\$0	\$0	Class II non-criminal \$25 for youth violating the law.		
Ohio	No response				
Oklahoma	Not surveyed				
Oregon	\$10	\$5	Class D Violation – maximum fine of \$94	"Up to the judge"	
Pennsylvania	\$10	\$5	\$50 plus costs	No	
Rhode Island	\$0	\$0	1st offense: Court ordered safety course. 2nd offense: \$100		
South Carolina	No response				
South Dakota	Not surveyed				
Tennessee	\$10	\$5	Up to \$50 fine plus court costs	Up to judge	
Texas	\$10 to \$13	\$0	Class C Misdemeanor (\$25-\$500);	No	
Utah	\$10, \$0 online	\$5	Class B misdemeanor, fine of up to \$1,000.00 and/or 6 months in jail	No, up to judge	
Vermont	\$0	\$0	\$34 fine	No	
Virginia	\$0	\$0	Class 4 misdemeanor	No	
Washington	\$10	\$5	Infraction: Monetary fine not yet established. (likely to be under \$100 for first offense)	Yes, if provide proof to court within 60 days	
West Virginia	\$0	\$10	\$20 - \$300 fine determined by Magistrate	No	
Wisconsin	No response				
Wyoming	Not surveyed				

A.2 CALIFORNIA BOATING VIOLATION BAIL AND PENALTY SCHEDULES

Table A-1, below, provides the bail and penalty schedules¹ for infraction violations under the California Harbors and Navigation Code (H&N). This information is intended as a reference for comparing boating safety education violations with other infractions.

Table A-1

Boating Bail and Penalty Schedules for Harbors and Navigation Code Infraction Violations				
Section	Notes	Offense	Base Fine	Total Bail
525 (a)	¹	Abandonment of vessel	\$500	\$1,750
652 (c)	²	Vessel does not meet standards	\$50	\$175
654 (a)	²	Improper mufflers/ use of cutouts	\$50	\$175
654.05 (a) (1-3)	²	Motorized vessel—noise level	\$50	\$175
654.06	²	Motorized vessel for sale—noise level	\$50	\$175
655.3	²	Equipment on vessels	\$50	\$175
655.7 (a-d)	²	Operation of personal watercraft	\$50	\$175
658.3 (a)	²	Children 11 years and under required to wear personal flotation device	\$50	\$175
658.5 (a)	³	Person under 16 years of age operating a motor vessel as prohibited	\$50	\$175
658.5 (b)	³	Person under 16 years of age operating a vessel as prohibited	\$50	\$175
658.5 (d)	³	Permitting person under 16 years of age to operate a vessel as prohibited	\$50	\$175
658.7 (a)		Ski flag requirement	\$15	\$64
659	²	Unlawful marking of waters	\$50	\$175
673	²	Boat livery recordkeeping	\$50	\$175
674	²	Livery boat equipment requirements	\$50	\$175
681 (a)	⁴	Operation or idling of motorized vessel while person is on or holding onto swim platform, swim deck, swim step, or swim ladder of the vessel	\$50	\$175
681 (b)	⁴	Operation or idling of motorized vessel while person is on or holding onto swim platform, swim deck, swim step, or swim ladder of the vessel	\$50	\$175
754	²	Record of stored vessels	\$50	\$175
780 (a)		Illegal discharge of sewage	\$50	\$175

Table Notes:

¹ Assembly. Bill 716 (Stats. 2005, ch. 311). Per H&N 525(c): Fine: "not less than \$500 nor more than \$3,000."

² Per H&N 668 (a): Fine "... not more than \$250."

³ Per H&N 668(d): Fine "... not more than \$100."

⁴ Per H&N 681(g): "... fine of up to \$100."

¹ *Rule 4.102. Uniform Bail and Penalty Schedules*, (San Francisco, The Judicial Council of California, January 2006), 75-80

In addition, per H&N Section 668 (j), violation of Section 654.3 (requirement for use of California-formulated diesel fuel for certain commercial vessels) is an infraction punishable by a maximum fine of five hundred dollars.

A.3 EXISTING BOATER SAFETY EDUCATION CERTIFICATION IN CALIFORNIA

The following information, presented at the August 17, 2006 boating stakeholder meeting in Sacramento, depicts the current status of boating safety education administered by the California Department of Boating and Waterways (DBW):

- The DBW administers existing California boating safety education programs
- Fifteen boating safety education courses are approved by the DBW. These courses also meet National Association of State Boating Law Administrators (NASBLA) requirements
 - NASBLA requirements ensure standardized course content
 - NASBLA requirements include information on operator responsibility and accident prevention.
- DBW-approved boating safety education courses are available in classroom, home-study (correspondence), and internet-based (online) formats
- Courses acceptable for boating safety education certification in California include:
 - U.S. Power Squadrons: America's Boating Course, Boat Smart, and Squadron boating Course
 - U.S. Coast Guard Auxiliary: Boating Skills and Seamanship, America's Boating Course
 - DBW-approved courses from American Boating Education, American Sailing Association, Boat Ed, PWC Safety School.com, US Sailing, and several other providers.

A.4 EXISTING APPLICABLE CALIFORNIA LAWS

The following existing sections of the Harbors and Navigation Code (H&N) are either directly or indirectly applicable to a potential boating safety education law:

A.4.1 *Exemptions for certain public-owned and other vessels*

650.1. (b) This chapter, except those sections which expressly indicate otherwise, shall not apply to the following:

- (1) Foreign vessels temporarily using waters subject to state jurisdiction.
- (2) Military or public vessels of the United States, except recreational-type public vessels.
- (3) A vessel whose owner is a state or subdivision thereof, which is used principally for governmental purposes, and which is clearly identifiable as such.
- (4) Ship's lifeboats.

A.4.2 *Vessels subject to a minimum operator age*

658.5. (a) Except as provided in subdivision (b), no person under 16 years of age shall operate a vessel powered by a motor of greater than 15 horsepower, except for a vessel that does not exceed 30 feet in

length and is designed to use wind as its principal source of propulsion, or a dinghy used directly between a moored vessel and the shoreline or between a moored vessel and another moored vessel.

(b) Except as provided in subdivision (a), no person 12, 13, 14, or 15 years of age shall operate a vessel powered by a motor of greater than 15 horsepower, or a vessel that exceeds 30 feet in length and is designed to use wind as its principal source of propulsion, unless the person is accompanied in the vessel by a person who is at least 18 years of age and who is attentive and supervising the operation of the vessel.

A.4.3 Violations requiring a boating safety course

668.1. (a) Any person convicted of a violation of subdivision (a), (b), (c), (d), (e), or (f) of Section 655, or of Section 655.2, 655.6, 655.7, 658, or 658.5, or of Section 191.5 of the Penal Code, or of the federal rules of the road and pilot rules, not including equipment requirements, incorporated by reference in Section 6600.1 of Title 14 of the California Code of Regulations, or found by a court to have performed any of the acts described in Section 6697 of Title 14 of the California Code of Regulations, pertaining to a mechanically propelled vessel but not to manipulating any water skis, an aquaplane, or similar device, when the conviction resulted from the operation of a vessel, shall be ordered by the court to complete and pass a boating safety course approved by the department pursuant to Section 668.3.

(b) Any person who has been ordered by the court to complete and pass a boating safety course pursuant to this section shall submit to the court proof of completion and passage of the course within seven months of the time of his or her conviction. The proof shall be in a form that has been approved by the department and that provides for the ability to submit the form to the court through the United States Postal Service. If the person who has been required to complete and pass a boating safety course is under 18 years of age, the court may require that the person obtain parental consent to enroll in the course. If the person does not complete and pass the boating safety course, the court may extend the period for completion or impose another penalty as prescribed by statute.

A.4.4 Department authority to develop and approve boating safety courses

668.1. (c) The department shall adopt regulations to carry out this section, including approval of boating safety education courses, as specified in Section 668.3, prescribing the forms for proof of completion and passage, approval of testing to indicate appropriate mastery of the course subject matter, and setting forth any fees to be charged to course participants, which fees shall not exceed the expenses associated with providing the course.

668.3. (a) For the purposes of Section 668.1, the department shall approve boating safety courses that it determines provides the course taker with information that effectively educates the course taker as to the basic rules of California waterways, the proper and safe manner to operate recreational vessels, and actions that can be taken to avoid boating-related environmental pollution.

(b) The department shall develop a personal watercraft education course that provides the course taker with information that effectively educates the course taker as to the basic rules of California waterways, the proper and safe manner to operate personal watercraft, and actions that can be taken to avoid personal watercraft-related environmental pollution. The course shall be voluntary and shall be made available to

groups, individuals, and clubs. The course shall be made available on the department's website and may be made available in other formats, as determined by the department. The department shall consult with the California State Sheriff's Association in developing the course and making it available on the Internet.

A.5 STAKEHOLDER WORKSHOPS

The Department of Boating and Waterways (DBW) hosted boating safety education law stakeholder workshops on July 20, 2006 (Los Angeles), and August 17, 2006 (Sacramento). The DBW published detailed minutes of each of these stakeholder workshops on the DBW website. A summary of the stakeholder workshops, including workshop attendees, can be found under a separate document titled: *Boating Safety Education Law Stakeholder Workshops Summary*.

The first workshop focused on reviewing existing safety education requirements in other states, as well as gathering issues and concerns regarding a potential California boating safety education law. The second workshop built upon the results of the first workshop, and gathered inputs regarding specific elements of a potential boating safety education law. Both workshops provided forums for public commentary on boating safety education legislation. The participants in both stakeholder workshops strongly supported a California boating safety education law consistent with the National Association of State Boating Law Administrators' (NASBLA) requirements.

Exhibit A-2, on the following four pages, details the law element questions and responses received from the August 17, 2006 boating stakeholder meeting held in Sacramento, California. The far right column shows the proposal for a California mandatory boater education law, and any applicable rationale.

Notes:

- Information in black text denotes the original questions, response choices, and comments presented to the boating stakeholder meeting in Sacramento on August 17, 1006.
- The percentages displayed in red text denote votes from the boating stakeholder meeting held in Sacramento on August 17, 1006. Some vote totals may not add up to 100 percent due to rounding.
- Information in underscored blue text denotes information added after the boating stakeholder meeting in Sacramento on August 17, 1006, including the proposals for California boater education legislation.

Exhibit A-2
Feedback from Stakeholder Workshop

Boating Safety Education Law Element	Potential Requirement and Stakeholder Vote (bold denotes NASBLA model act requirement)				Comments	Proposal for Bill/ Rationale
	Short (4-6 years)	Medium (7-9 years)	Long (10-12 years)	Very Long (Over 40 years – “born after” date)		
1. Phase In: Over how long a period should boating safety education requirements be phased in?	75%	17%	6%	2%	Excludes time for DBW to prepare for implementation	9 years/ adequate time to provide classrooms
2. General: What should be the requirement for boating safety education certification?	Safety education course and on-the-water proficiency exam for all operators 20%	Safety education course for all ages, and on-the-water proficiency exam for those under 18 14%	Safety education course and exam 58%	Safety education exam 8%	DBW would develop standards for on-the-water (hands-on) proficiency exams	“a course that meets the standard adopted by the department as specified in Section 668.3, or pass an equivalency exam”
3. Grandfathering: At what age should operators be exempt from safety education requirements?	None 88%	60 2%	50 4%	40 6%		No grandfathering
4. Challenge: What option, in lieu of a safety education course, should be available for those who considerable themselves knowledgeable about boating safety?	None 12%	A proctored (supervised) exam 22%	Any exam from a California DBW-approved course (including online) 22%	If there is proof of a course, you may take the approved exam 44%		Type of exam not specified. DBW to “Develop standards for an equivalency examination that may be taken as an alternative to the boating safety education course”

Exhibit A-2
Feedback from Stakeholder Workshop

Boating Safety Education Law Element	Potential Requirement and Stakeholder Vote (bold denotes NASBLA model act requirement)						Comments	Proposal for Bill/ Rationale
5. Renters: What safety education certification should be required for operators of rental vessels?	Full certification required for operators 31%		Abbreviated safety presentation and short exam required for all potential operators 69%		No certification required 0%			Abbreviated safety presentation and exam (DBW to "Develop standards for instruction and safety and operating checklists for operators of rental vessels"
6. Reciprocity: What should be the certification requirements for non-resident vessel operators?	Exempt for up to 60 days if operator has passed a NASBLA-approved course 22%	Exempt for up to 60 days if operator meets home state certification requirements 22%	Exempt for up to 60 days 7%	No certification required 2%	Reciprocity would be in place with a NASBLA-approved course and no time limit and/ or take an abbreviated safety course and exam 44%			NASBLA language – exempt for up to 60 days if meet home state certification requirements. Temporary certification process too unwieldy for non-California residents.
7. New Owners: What should be the certification requirement for new buyers of vessels?	Certification required before operation 47%	Exempt from certification requirement for 30 days 2%		Exempt from certification requirement for 60 days 11%		Exempt from certification requirement for 60 days if they have taken an abbreviated course and exam 40%	New owners must register vessels within 30 days	Exempt from certification for up to 60 days from bill of sale. Temporary certification process too unwieldy for new boat owners
8. Financial Penalty: What should be the financial penalty for operating a vessel without required operator certification?	Misdemeanor; \$100 base fine, \$1,000 max fine 7%	Misdemeanor; \$50 base fine, \$500 max fine 0%	Infraction; \$250 base fine; \$1,000 max fine 61%	Infraction; \$50 base fine, \$250 max fine 32%	Infraction; \$25 base fine, \$100 max fine 0%	No financial penalty 0%		Infraction; \$100 base fine, \$500 max fine/ more in line with existing infraction penalties

Exhibit A-2
Feedback from Stakeholder Workshop

Boating Safety Education Law Element	Potential Requirement and Stakeholder Vote (bold denotes NASBLA model act requirement)				Comments	Proposal for Bill/ Rationale
9. Course Required: Should an operator cited for violating the certification law be required to complete a safety education course within a certain time period?	Yes, within 60 days 22%	Yes, within 120 days 41%	No 7%	(Yes, within) Current requirement; 7 months 29%	Failure to complete the course within the required time would result in additional penalties	Required within 7 months (similar to H&N 668.3). To add boater education card violations to Section 668.1 (a)
10. Waiver: May a court allow waiver of penalty if violator takes a safety education course after a citation?	No waiver allowed 8%	Yes, if course taken within 30 days of violation 35%	Yes, if course taken within 60 days of violation 58%		NASBLA language is actually "within the time limits imposed by the [insert court name]." WA is 60 days	"Within the time limits imposed by the court", not to exceed seven months./ Consistent with NASBLA language
11. Proof: Should the penalty be waived for an operator not carrying an existing safety education certificate when cited?	No waiver 0%		Correctable violation; violator may have citation signed off and submitted to court with nominal processing fee 100%		Vehicle (e.g., auto) owners have up to 30 days to address correctable violations Transaction fee for DMV violations is \$10	"The penalty shall be waived, less a ten dollar (\$10) transaction fee ..."
12. Proficiency Exam for Violators: When should a hands-on (on the water) boating proficiency exam be required for violators of boating laws?	Requirement for operating without required safety education certification 2%	Requirement for any boating moving violation 18%	Requirement for operators convicted of major moving violations, BUI, and reckless boating 58%	None 22%	DBW would develop standards for hands-on proficiency exam	Not included/ Recommend as separate bill/ initiative

Exhibit A-2
Feedback from Stakeholder Workshop

Boating Safety Education Law Element	Potential Requirement and Stakeholder Vote (bold denotes NASBLA model act requirement)				Comments	Proposal for Bill/ Rationale
13. Power: For what motorized vessel horsepower should boating safety education be required for operators?	All motorized vessels 81%	Vessels with a motor of greater than 15 hp 19%	Vessels with a motor of greater than 30 hp 0%		16 year minimum operator age applies to boats over 15 hp	"operate a vessel powered by a motor of greater than 15 horsepower"/ consistent with H&N 658.5 (minimum age)
14. Sailboats: For which sailboats should boating safety education be required for operators?	All sailboats 21%	Sailboats over 8' long 58%	Sailboats over 14' long 11%	No sailboats 7%	Sailboats longer than 8' must be registered 16 year minimum age applies to sailboats over 30 feet. Only 3 states require certification for sailboat operators	Sailboats over 30 feet/ / consistent with H&N 658.5 (minimum age)
15. Other non-motorized vessels: Should certification be required for operators of other non-motorized vessels? (canoes, kayaks, etc.)	All non-motorized vessels 23%	Hard-sided vessels (non-inflatable) 3%	No certification requirement 74%			No requirement

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